Supreme Court, U.S.
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No. 02-1774

IN THE

Supreme Court of the United States

FRED RIGGS, DONNA SINGER, AND AL DICKSON,

Petitioners,

v.

SAN JUAN COUNTY, SAN JUAN HEALTH SERVICES DISTRICT, County Commissioner J. TYRON LEWIS, Former County Commissioner BILL REDD, County Commissioner LYN STEVENS (official capacity only), County Commissioner MANUAL MORGAN (official capacity only), RICHARD BAILEY, County Attorney CRAIG HALLS, REID WOOD, KAREN ADAMS, ROGER ATCITTY, PATSY SHUMWAY (official capacity only), JOHN LEWIS, LAUREN SCHAFER, FARMER'S/TRUCK INSURANCE, attorney R. DENNIS ICKES, and as yet unnamed JOHN AND JANE DOES, in their official and individual capacities, jointly and severally,

Respondents.

ON PETITION FOR WRIT OF MANDAMUS AND/OR PROHIBITION TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF IN OPPOSITION FOR RESPONDENTS SAN JUAN COUNTY

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QUESTIONS PRESENTED

I. Should this Court instruct the Tenth Circuit Court of Appeals and/or the United States District Court, District of Utah, by a writ of mandamus, to enforce the Navajo Nation Tribal Court Orders against San Juan County Defendants under full faith and credit as set forth in 28 U.S.C. § 1738?

II. Should this Court issue a writ of prohibition against San Juan County and its commissioners, county administrator, and county attorney prohibiting their representation by a single private law firm?

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Respondents, San Juan County, Utah, San Juan County Commissioners J. Tyron Lewis, Lyn Stevens, and Manuel Morgan, former San Juan County Commissioner Bill Redd,[1] San Juan County Attorney Craig Halls, and San Juan County Administrator Rick Bailey (collectively "San Juan County Defendants") respectfully file this Brief in Opposition to Petition for Writ of Mandamus and/or Prohibition filed by Fred Riggs, Donna Singer, and Al Dickson ("Plaintiffs").

OPINIONS BELOW

The Findings, Opinion and Judgment at Preliminary Injunction, entered by the District Court of the Navajo Nation, Shiprock, New Mexico ("Navajo Tribal Court") on December 28, 1999, is reprinted in the appendix to the Petition for Writ of Mandamus and Prohibition. *(P. App. at 1a)*. The Navajo Tribal Court entered four additional orders in furtherance of the preliminary injunction: Order Denying Defendants' Motion to Dissolve or Modify the Preliminary Injunction Order *(P. App. at 33a)*; Special Order in Aid to Satisfaction of Preliminary Injunction *(P. App. at 53a)*; Order Mandating That All Defendants to Be Bound by the Preliminary Injunction Order *(P. App. at 55a)*; and Order Clarifying the March 1, 2000 Order *(P. App. at 58a)* (collectively, the "Tribal Court Orders").

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1. At the time the lawsuit was filed in Navajo Tribal Court, Plaintiffs named San Juan County Commissioners J. Tyron Lewis and Bill Redd in both their official and personal capacities, and San Juan County Commissioner Mark Maryboy in his official capacity only. The current San Juan County Commissioners, Manuel Morgan and Lyn Stevens, have been substituted for Bill Redd and Mark Maryboy pursuant to Fed. R. Civ. P. 25(d) and are named only in their official capacities. Bill Redd remains in the lawsuit in his personal capacity only and Mark Maryboy has been dismissed.

A Memorandum Decision and Order was entered on October 30, 2000, by the United States District Court, District of Utah, denying Plaintiffs' request for enforcement of the Navajo Tribal Court's preliminary injunction with respect to San Juan County Defendants. This decision was certified for interlocutory appeal on March 7, 2001 and is reprinted in the appendix to San Juan County Defendants' Brief in Opposition to Petition for Writ of Certiorari and Prohibition. *(R. App. at 1a).*

The opinion of the United States Court of Appeals for the Tenth Circuit was entered on October 7, 2002, and is reported as *MacArthur v. San Juan County*, 309 F.3d 1216 (10th Cir. 2002). *(P. App. at 121a).* On November 8, 2002, the Tenth Circuit denied Plaintiffs' Petition for Panel Rehearing and San Juan County Defendants' Petition for Rehearing En Banc. *(R. App. at 15a).* On February 20, 2003, the Tenth Circuit denied Plaintiffs' Petition for Writ of Mandamus. *(P. App. at 119a).*

Plaintiffs filed a Petition for Writ of Certiorari with this Court, Docket No. 02-1253, which the Court denied on June 2, 2003. Plaintiffs filed a Petition for Writ of Mandamus and/or Prohibition on May 28, 2003, Docket No. 02-1774, prior to the Court's denial of their Petition for Writ of Certiorari.

STATEMENT OF JURISDICTION

This Court has the authority to issue a writ of mandamus and/or a writ of prohibition under 28 U.S.C. § 1651(a) and Rule 20 of the Rules of the United States Supreme Court.

CONSTITUTIONAL PROVISION, STATUTES AND RULE

U.S. Const. art. IV, § 1

> Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State; And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

28 U.S.C. § 1738, which provides in pertinent part:

> The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.
>
> Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

28 U.S.C. § 1651(a)

> The Supreme Court and all courts established by an act of congress may issue all writs necessary and appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

United States Supreme Court Rule 20.1

> Issuance by the Court of an extraordinary writ authorized by 28 U.S.C. § 1651(a) is not a matter or right, but of discretion sparingly exercised. To justify the granting of any such writ, the petition must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

STATEMENT OF THE CASE AND FACTUAL BACKGROUND

San Juan County, a political subdivision of the State of Utah, acting through its Commissioners, exercised the statutory authority given to it by the Utah Legislature and created the San Juan Health Services District ("Health Services District") to facilitate the delivery of medical care to residents of a remote area of San Juan County. By statute, the Health Services District is a distinct and independent entity, separate from San Juan County. The Health Services District operated the Montezuma Creek Clinic (the "Clinic") which provided outpatient care to Navajo Tribe members

pursuant to a contract with Indian Health Services, a federal agency. The Clinic is situated on fee land owned by the State of Utah as part of the Utah Navajo Trust Fund. Neither the facility nor the land is owned by San Juan County.

Singer, Riggs, and Dickson (collectively, "Plaintiffs"), were employed at the Clinic. Singer served as the Clinic's manager, Riggs was a physicians' assistant, and Dickson was an office clerk. Both Riggs and Dickson are Navajo Tribe members; Singer is a non-Indian married to a member of the Navajo Tribe. When the Clinic's contract with Indian Health Services expired on December 31, 1999, the operation of the Clinic was transferred to Utah Navajo Health Systems, Inc., a non-profit organization affiliated with the Navajo Tribe.

On April 12, 1999, prior to the transfer of the Clinic's operations to Utah Navajo Health Systems, Plaintiffs sued San Juan County Defendants, and others, in the Navajo Tribal Court, alleging violations of the Navajo Preference in Employment Act at the Clinic. The Plaintiffs' objective was to compel the continued operation of the Clinic and to reinstate certain discharged employees, including Singer, who had been fired for fraud, embezzlement and other misconduct. Plaintiffs also brought 42 U.S.C. § 1983 claims for civil rights violations and a variety of state common law tort claims.

On the same day that Plaintiffs filed suit, Singer obtained a Restraining Order from the Navajo Tribal Court requiring San Juan County Defendants to return her "to her management position," award to her back pay and other benefits, turn over control of the Clinic to a "Special Master" to be paid for by all Defendants, expunge Singer's personnel file of all records referring to "fraud," "misconduct," and

"other violations," prohibiting San Juan County Defendants and the other Defendants from entering onto the Clinic property without the Special Master's approval and ordering them not to charge Navajo patients for medical care, regardless of whether that medical care was provided at the Clinic or some other off-reservation Health Services District facility. On June 22, 1999, San Juan County Defendants answered the Navajo Tribal Court Complaint and raised both sovereign immunity and lack of subject matter jurisdiction as affirmative defenses.

The Navajo Tribal Court entered its Findings, Opinion and Judgment on December 28, 1999, requiring San Juan County Defendants to reinstate Singer and the other Plaintiffs with back pay and benefits, as well as pay their attorneys' fees. The Navajo Tribal Court also ordered that medical services were not to be eliminated at the Clinic, that a Special Master was to be placed in charge of that facility, that San Juan County Defendants were not allowed on the Clinic's premises without permission of the Special Master, and that Navajo patients were not to be billed for the medical care they received, regardless of whether that medical care was provided at the Clinic or some other off-reservation facility.

Subsequently, the Navajo Tribal Court entered another Order on March 1, 2000, denying San Juan County Defendants' Motion to Dissolve or Modify Preliminary Injunction. In this same Order, the Navajo Tribal Court again ordered the reinstatement of Singer and other employees with back pay and benefits even though the Clinic's operations had been transferred two months earlier to Utah Navajo Health Systems. The Navajo Tribal Court also ordered San Juan County Defendants not to interfere with the operation of the Clinic, not to eliminate any medical services at the

Clinic and to cease billing Navajo patients for medical care regardless of whether that care was received at a facility on the reservation or off the reservation. Additionally, and without a hearing, the Navajo Tribal Court imposed a $10,000 per day fine for each day its orders were not complied with and further ordered that "every personal Defendants and Defendants counsel will pay $1,000 per day of the $10,000 daily fine from their own personal assets."

On March 2, 2000, the Navajo Tribal Court entered a "Special Order" granting Plaintiffs leave to sue in "any Utah or Federal Court" to enforce the Tribal Court Orders. Plaintiffs then brought suit in the United States District Court, District of Utah ("District Court"), against San Juan County Defendants and others. The plaintiffs in the District Court included the Plaintiffs and other individuals. The Complaint filed in the District Court sought, among other relief, enforcement of the Tribal Court Orders against San Juan County Defendants. In addition, Plaintiffs asserted numerous additional claims against San Juan County Defendants. San Juan County Defendants moved to dismiss Plaintiffs' claim for enforcement of the Tribal Court Orders on the basis of sovereign immunity and the District Court granted their motion on October 30, 2000. On March 7, 2001, the District Court certified its October 30, 2000 Order for appeal to the Tenth Circuit. The sole issue certified for appeal, which pertains to San Juan County Defendants and Health District Defendants, was whether they were immune from suit in Navajo Tribal Court. *(R. App. at 4a)*. Subsequently, the Tenth Circuit vacated the dismissal of San Juan County Defendants by the District Court and remanded the matter for further proceedings, stating "it would be premature to decide the sovereign immunity question because there remains a threshold question of the tribe's jurisdiction under *Montana*."

MacArthur v. San Juan County, 309 F.3d at 1226. At the direction of the District Court, all parties filed briefs on the issue of subject matter jurisdiction under *Montana*. As of the filing of this Brief, the District Court has not yet ruled on that issue.

Without waiting for the District Court decision on subject matter jurisdiction, Plaintiffs filed a Petition for Writ of Certiorari with this Court on February 6, 2003, which was denied on June 2, 2003, and this Petition for Writ of Mandamus and/or Prohibition on May 28, 2003.

REASONS FOR DENYING THE PETITION FOR WRIT OF MANDAMUS AND/OR PROHIBITION

Plaintiffs ask this Court for a writ of mandamus granting the Tribal Court Orders full faith and credit under 28 U.S.C. § 1738. San Juan County Defendants respond that a writ of mandamus is inappropriate because Plaintiffs have not exhausted their available remedies in the lower courts. More importantly, the District Court has not yet ruled on whether the Navajo Tribal Court had subject matter jurisdiction over San Juan County Defendants, a question presented on remand by the Tenth Circuit Court of Appeals. *MacArthur v. San Juan County*, 309 F.3d at 1228. Even if mandamus were an appropriate remedy, Plaintiffs do not have a clear and undisputed right to the relief they request.

In addition to a writ of mandamus, Plaintiffs inappropriately seek a writ of prohibition against the representation of San Juan County Defendants by one law firm. San Juan County Defendants respond that the United States Supreme Court is an inappropriate forum to seek prohibition of a "unified defense" because again, Plaintiffs

have not exhausted their remedies in the lower courts. Moreover, Plaintiffs have no standing to assert that there may be conflicts of interest among San Juan County Defendants, prohibiting representation by a single, private law firm; any dispute as to San Juan County Defendants' representation belongs to them, not Plaintiffs. Thus, Plaintiffs are not entitled to the requested relief. These issues are addressed in more detail below.

I. PLAINTIFFS' INAPPROPRIATE REQUEST FOR A WRIT OF MANDAMUS IS AN ATTEMPT TO CIRCUMVENT LOWER COURT ADJUDICATION.

Plaintiffs petition this Court to issue a writ of mandamus, ordering enforcement of the Tribal Court Orders under full faith and credit. However, Plaintiffs cannot meet the established criteria upon which a writ of mandamus is based. The All Writs Act is the source of this Court's authority to issue a writ of mandamus and/or prohibition:

> The Supreme Court and all courts established by an act of congress may issue all writs necessary and appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

28 U.S.C. § 1651(a). The issuance of these extraordinary writs is aided by Rule 20 of the United States Supreme Court Rules which calls for a petitioner to show (1) that the writ will be in aid of appellate jurisdiction, (2) that exceptional circumstances warrant the exercise of the Court's discretionary powers, and (3) that adequate relief cannot be obtained in either form or in any other court. Sup. Ct. R. 20. *See, e.g., Ohio Citizens For Responsible Energy, Inc. v.*

Nuclear Regulatory Com'n, 479 U.S. 1312, 1313, 107 S. Ct. 682, 683 (1986) (the issuance by the Court of an extraordinary writ authorized by 28 U.S.C. § 1651(a) is not a matter of right, but of discretion sparingly exercised).

Writs of mandamus and/or prohibition, like equitable remedies, may be granted or withheld in the sound discretion of this Court. *Ex parte Republic of Peru*, 318 U.S. 578, 63 S. Ct. 793 (1943). Petitions for these writs are usually denied where other adequate remedies are available. *Id.* To obtain these writs, petitioners must show that they lack adequate alternative means to obtain the relief they seek; they also carry the burden of showing that their right to issuance of the writ is clear and indisputable. *Mallard v. U.S. Dist. Court for Southern Dist. Of Iowa*, 490 U.S. 296, 109 S. Ct. 1814 (1989). *See also Heckler v. Ringer,* 466 U.S. 602, 104 S. Ct. 2013 (1984) (common law writ of mandamus is intended to provide a remedy for a plaintiff only if he has exhausted all avenues of relief and only if the defendant owes him a clear, nondiscretionary duty) and *Kerr v. U.S. Dist. Court for Northern Dist. Of California*, 426 U.S. 394, 96 S. Ct. 2119 (1976) (party seeking issuance of writ of mandamus must have no other adequate means to attain the relief he desires and must satisfy the burden of showing that his right to issuance of the writ is clear and indisputable).

In addition, extraordinary writs are reserved for extraordinary causes, and then only to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so. *Platt v. Minnesota Min. & Mfg. Co.*, 376 U.S. 240, 84 S. Ct. 769 (1964). Plaintiffs have failed to show that they have no alternative means, or that they even have a right to require the enforcement of the Tribal Court Orders under full faith and credit.

A. Whether the Tribal Court Orders Should Be Enforced under Full Faith and Credit Should Not Be Considered Until the District Court Decides Whether the Navajo Tribal Court Has Subject Matter Jurisdiction.

The issue of whether the Tribal Court Orders are entitled to full faith and credit should not even be considered until the District Court has decided the question of subject matter jurisdiction. Federal courts must not recognize nor enforce tribal court judgments if the tribal court does not have subject matter jurisdiction. *Wilson v. Marchington*, 127 F.3d 805, 810 (9th Cir. 1997) (holding that "federal courts must neither recognize nor enforce tribal judgments if: (1) the tribal court did not have both personal and subject matter jurisdiction; or (2) the defendant was not afforded due process of law").

In this action, the appeal process began when the Honorable Dale A. Kimball of the District Court granted Plaintiffs' Rule 54(b) motion. The single issue certified for appeal which pertains to the San Juan County Defendants, was whether San Juan County Defendants were entitled to sovereign immunity. *(R. App. at 4a)*. As Plaintiffs admitted to the Tenth Circuit, "they did not argue full faith and credit in the Federal [district] Court . . . [but] Plaintiffs now argue full faith and credit is appropriate for exclusively tribal claims under the facts of this case." *MacArthur v. San Juan County*, 309 F.3d at 1225. The Tenth Circuit appropriately responded that it does not consider an issue on appeal that was not pressed below and would not do so now. *Id.* Instead, the Tenth Circuit ruled that the District Court should have conducted an inquiry into the subject matter jurisdiction of the Navajo Tribal Court prior to addressing the sovereign immunity question and remanded the case to District Court for such

consideration. Although briefed by San Juan County Defendants and Health District Defendants, and several times by Plaintiffs, the District Court has not yet reached a decision on that issue. Accordingly, until a decision on subject matter jurisdiction is reached, and then a subsequent decision regarding whether the District Court correctly ruled that San Juan County Defendants are entitled to sovereign immunity, the question of whether the Tribal Court Orders are entitled to full faith and credit is not ripe for consideration.

B. The Writ of Mandamus Cannot Be Used to Enforce Tribal Court Orders When There Are Still Options Available in the Lower Courts.

Plaintiffs seek to completely bypass the judicial proceedings available to them in the lower courts by requesting a writ of mandamus to enforce the Tribal Court Orders against San Juan County Defendants under 28 U.S.C. § 1738. Normally, a writ of mandamus turns on equitable considerations, as this Court held in *United States ex rel. Greathouse v. Dern*, 289 U.S. 352, 53 S. Ct. 614 (1933). However, granting Plaintiffs' request for full faith and credit of the Tribal Court Orders under a writ of mandamus requires that this Court depart from the well-settled rule that a writ of mandamus may not be employed to secure the adjudication of a disputed right for which an ordinary suit affords an equally adequate and complete remedy. *See United States ex rel. Girard Trust Co. v. Helvering*, 301 U.S. 540, 544, 57 S. Ct. 855, 857 (1937) (citations omitted).

The first time Plaintiffs addressed the full faith and credit issue, as applied to San Juan County Defendants, was in their appeal to the Tenth Circuit. *San Juan County v. MacArthur*, 309 F.3d at 1225. As noted in subsection A. above, the Tenth

Circuit appropriately refused to consider whether full faith and credit applied to Tribal Court Orders because Plaintiffs had not raised that issue in the district court. *Id.* Plaintiffs should not be allowed to circumvent appropriate judicial proceedings by way of an extraordinary writ simply because they did not avail themselves of the opportunity to raise this issue in the lower courts.

C. Plaintiffs Have No Right to Full Faith and Credit Because It Does Not Apply to Tribal Court Orders.

Even if a writ of mandamus was the appropriate avenue for relief, Plaintiffs are still not entitled to the enforcement of the Tribal Court Orders under full faith and credit. To determine whether full faith and credit applies to the Tribal Court Orders, the Court should begin by reviewing the Full Faith and Credit Clause as set forth in the United States Constitution and its enabling statute at 28 U.S.C. § 1738. The United States Constitution's Full Faith and Credit Clause provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof." U.S. Const. art. IV, § 1. It is obvious that the Full Faith and Credit Clause applies only to states and the United States Constitution is silent about the recognition of tribal court judgments, even though it specifically addresses other tribal concerns. *See Wilson v. Marchington*, 127 F.3d at 808. Since the Full Faith and Credit Clause does not apply to tribal court judgments, the next step is to determine whether

28 U.S.C. § 1738, which provides for full faith and credit among "states, territories and possessions" of the United States, may be used to grant full faith and credit to the Tribal Court Orders.

It is true that in some circumstances, judgments of tribal courts, as to matters properly within their jurisdiction, have been regarded as entitled to full faith and credit in other courts. In *Wilson*, the court noted that certain federal statutes specifically extended full faith and credit to Indian tribes such as the Indian Land Consolidation Act, 25 U.S.C. §§ 2201-2211 (extending full faith and credit for actions involving trust, restricted or controlled lands) and the Maine Indian Claims Settlement Act, 25 U.S.C. § 1725(g) (requiring certain tribes and the State of Maine to give full faith and credit to each other's judicial proceedings). *Id.* Another example is the Indian Child Welfare Act ("ICWA") which specifically vests tribal courts with jurisdiction over certain child custody and placement matters. ICWA expressly provides that decisions of a tribal court on these matters are entitled to full faith and credit. 25 U.S.C. § 1911(d). But outside of child custody and placement under ICWA, and other limited areas with statutory authorization, courts will not recognize tribal court judgments as being entitled to full faith and credit. *Wilson v. Marchington*, 127 F.3d at 808. The *Wilson* court reasoned that if Congress had specifically intended to include Indian tribes under 28 U.S.C. § 1738, it could have done from the inception of the statute or with a subsequent amendment. *Id.* Congress did not choose that path and instead, created specific exemptions in cases of Indian child custody disputes and Indian land trusts. *Id.*

Likewise, states have the statutory power to extend full faith and credit to tribal court judgments and many have used that power for specific circumstances, such as the

enforcement of protective orders and adoption decrees. *See, e.g.*, A.R.S. § 13-3602 (full faith and credit for protective orders) and N.R.S. § 127.017 (full faith and credit to judicial proceedings for adoption). Although a few other states have extended full faith and credit more broadly, it is still done by statutory authority. *See, e.g.*, 12 Okl. St. Ann. § 728 (permitting the Supreme Court of the State of Oklahoma to extend full faith and credit to tribal court judgments), W.S.A. § 806.245 (granting full faith and credit to Wisconsin Indian tribal courts), W.S. 1977 § 5-1-111 (granting full faith and credit to certain tribes for tribal acts and records).[2] If tribal court judgments were automatically entitled to full faith and credit under 28 U.S.C. § 1738, there would be no need for the states or Congress to enact enabling legislation. *See, e.g.*, *Erlenbaugh v. United States*, 409 U.S. 239, 243-244, 93 S. Ct. 477, 480 (1972) (a later legislative act can be regarded as a legislative interpretation of an earlier act and "is therefore entitled to great weight in resolving any ambiguities and doubts." (quoting *United States v. Stewart*, 311 U.S. 60, 64-65, 61 S. Ct. 102, 105 (1940)).

The decision to extend full faith and credit to tribal court judgments is within the power of Congress or the states. It is not within the power of the federal judiciary. Since Congress has declined to grant tribal court judgments full faith and credit except in specific instances, and since the State of Utah has no statute or precedent extending full faith and credit to tribal court judgments except as required by ICWA, Plaintiffs cannot ask this Court to make an exception to established law.

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2. Other states which have statutory authority to grant full faith and credit under certain circumstances to tribal court judgments are Colorado, District of Columbia, Idaho, Indiana, Maryland, Minnesota, Nebraska, New Mexico, New York, North Carolina, Oregon, South Carolina, Washington, and West Virginia.

II. PLAINTIFFS LACK STANDING TO SEEK THE PROHIBITION OF SAN JUAN COUNTY DEFENDANTS' UNIFIED DEFENSE.

Plaintiffs argue that San Juan County Defendants' unified defense is a conflict of interest among themselves, thus denying Plaintiffs' due process rights. They claim that San Juan County itself should have separate representation from its Commissioners. For support, Plaintiffs rely on Rule 1.13 of the Model Rules of Professional Conduct which applies to government attorneys, such as the County Attorney who is a defendant in this lawsuit, not to attorneys in a private law firm. Originally, Plaintiffs raised this issue in District Court and were defeated. *(R. App. at 1a).* Plaintiffs cannot show that they are entitled to such relief from this Court.

A. Plaintiffs Have Not Exhausted Their Legal Remedies.

Although Plaintiffs objected to San Juan County Defendants' representation in District Court, their motion was defeated. *(R. App. at 9a-10a, 13a).* Plaintiffs may still appeal this issue, among their other contentions, once the District Court rules on all the issues presented to it and a final judgment is entered.

B. Plaintiffs Lack Standing to Request the Prohibition of a Unified Defense.

It is difficult, to say the least, to understand how San Juan County Defendants' representation by a single law firm is a denial of Plaintiffs' due process rights. As support, Plaintiffs mistakenly look to Rule 1.13 of the Model Rules of Professional Conduct to attack San Juan County

Defendants' representation by a private law firm. A comment from Rule 1.13, cited in Plaintiffs' brief, notes that "a lawyer for the government may have a legal duty to question the conduct of government officials and perform additional remedial or corrective actions, including investigation and prosecution." These duties belong to the San Juan County Attorney. *See* Utah Code Ann. § 17-18-1 to -5 (enumerating the duties of a county attorney). Private law firms cannot conduct official investigations and prosecutions and it is ludicrous to think that a private attorney could turn around and prosecute his or her own client. Hence, Plaintiffs' reliance on Rule 1.13 is misplaced. As the Tenth Circuit noted, "[a]n attorney has no duty . . . to protect the interests of a non-client adverse party for the obvious reasons that the adverse party is not the intended beneficiary of the attorney's services and that the attorney's undivided loyalty belongs to the client." *MacArthur v. San Juan County*, 309 F.3d at 1224 (citations omitted).

Moreover, the District Court has already ruled once on this very issue. Plaintiffs brought a motion before the District Court to disqualify counsel, alleging that conflicts of interest existed because the commissioners, sued in their official capacity and personal capacity, could have conflicts of interest with each other and with San Juan County. Thus, Plaintiffs argued that having the same lawyer for the commissioners and San Juan County was a conflict of interest. The District Court denied Plaintiffs' motion on the grounds that "Plaintiffs have failed to identify any conflict, let alone a conflict that would grant them standing to seek disqualification." *(R. App. at 10a)*. The Model Rules of Professional Conduct have already provided for potential conflicts that may arise under Rule 1.7's conflict procedure. Any dispute over an existing conflict of interest and all that

it implies belongs to San Juan County Defendants and any other co-defendants. It does not belong to Plaintiffs nor does it affect their due process rights.

In addition, Plaintiffs have not produced any evidence demonstrating the existence of an actual injury, or even imminent injury, which would allow Plaintiffs the right to direct San Juan County Defendants' choice of representation. Under the standing requirements, Plaintiffs have the burden of establishing the following elements: (1) they have suffered an injury-in-fact; (2) a causal connection between injury and conduct complained of; and (3) it must be likely that the injury will be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 112 S. Ct. 2130, 2136 (1992). Once a lawsuit has progressed past the pleading stage, allegations based upon mere conjecture and speculation are insufficient to support a claim of injury. *Id.*

Plaintiffs demand the disqualification of San Juan County Defendants' counsel, based upon the mere presumption that there are conflicts of interest among San Juan County Defendants. However, Plaintiffs fail to meet the requirements for standing and are not entitled to their requested relief. First, Plaintiffs have failed to show that they have actually suffered an injury or that an injury is even imminent. Plaintiffs allege that if the San Juan County Defendants are represented by a single private law firm, then that representation prohibits investigation and prosecution of county officials for wrongdoing. *(P. Brief at 28)*. Plaintiffs have not offered any factual support or evidence in support of this allegation, notwithstanding the fact that a private law firm does not conduct investigations or prosecute malfeasant officials. Nonetheless, Plaintiffs apparently believe that this blanket pronouncement should be reason enough to prohibit

a unified defense. Even if there are conflicts among San Juan Defendants, which there are not, Plaintiffs have not shown that they are affected by such alleged conflicts and thus have not sustained any injury-in-fact.

Moreover, under Rule 1.7, a party must demonstrate that opposing counsel had inappropriate contact with represented parties in order to seek disqualification of an opposing party's counsel. Plaintiffs do not seek disqualification of San Juan County Defendants' counsel under Rule 1.7 but based upon alleged conflicts among all Defendants. Because Plaintiffs have failed to even show that an actual injury has occurred, it is unnecessary to address prongs two and three of the standing test. For the reasons set forth above, Plaintiffs do not have standing to request the prohibition of a unified defense of San Juan County Defendants. Whether there is a conflict of interest among San Juan County Defendants or not, it is irrelevant to Plaintiffs' pursuit of this lawsuit.

III. SAN JUAN COUNTY DEFENDANTS SHOULD BE AWARDED DAMAGES AND COSTS PURSUANT TO SUP. CT. R. 42.2.

Plaintiffs filed a Petition for Writ of Certiorari (Docket No. 02-1253) which this Court denied. Plaintiffs then sought review of that denial pursuant to Sup. Ct. R. 44(a). Now Plaintiffs have filed this Petition for Writ of Mandamus and/or Prohibition asking for the same relief with slightly different arguments. This is a frivolous attempt to bypass ordinary judicial proceedings and use this Court's authority to obtain enforcement of the Tribal Court Orders. San Juan County Defendants have incurred significant costs and fees in responding to the Petition and the subsequent motion to expedite the proceedings. Pursuant to Sup. Ct. R. 42.2,

San Juan County Defendants should be awarded the attorneys' fees and costs associated with their response to the Petition for Writ of Mandamus and/or Prohibition.

CONCLUSION

For the foregoing reasons, San Juan County Defendants respectfully request that the Court deny the Petition for Writ of Mandamus and/or Prohibition, and award to them their attorneys' fees and costs incurred in responding to the same.

Respectfully submitted,

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Counsel for Respondents San Juan County, Utah, San Juan County Commissioners J. Tyron Lewis, Lyn Stevens and Manual Morgan, Former Commissioner Bill Redd, County Attorney Craig Halls and County Administrator Richard Bailey

APPENDIX

APPENDIX A — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH, CENTRAL DIVISION DATED MARCH 6, 2001 AND RECEIVED MARCH 7, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

No. 2:00CV584K

DR. STEVEN MACARTHUR et al.,

Plaintiffs,

v.

SAN JUAN COUNTY et al.,

Defendants.

ORDER

This matter is before the court on (1) Plaintiffs' Motion for Rule 54(b) Certification As to the October 30 and December 13 Orders, (2) Defendant R. Dennis Ickes' Motion to Dismiss, (3) Defendants' Joint Motion for a Protective Order Regarding Mark Maryboy or in the Alternative to Disqualify Plaintiffs' Counsel, and (4) Plaintiffs' Motion to Disqualify Defendants' Counsel. A hearing on these motions was held on February 13, 2001. At the hearing, Plaintiffs were represented by Susan Schildmeyer, the San Juan County Defendants were represented by Jesse Trentadue, the Health District Defendants were represented by Carolyn Cox, Truck was represented by Kyle Finch via telephone, and Dennis Ickes represented himself.

Appendix A

At the hearing, Mr. Doug Short requested that he be allowed to represent Mr. Maryboy, and Defendants objected to his representation. Accordingly, the court ordered that the parties file simultaneous briefs on that issue by February 23, 2001. The court has also addressed that issue in this Order.

Before the hearing, the court considered carefully the memoranda and other materials submitted by the parties. Since taking the matter under advisement, the court has further considered the law and facts relating to these motions and has considered the subsequent briefing filed by the parties related to Doug Short's proposed representation of Mr. Maryboy. Now being fully advised, the court renders the following Order.

I. PLAINTIFF'S RULE 54(b) MOTION

Plaintiffs seek certification pursuant to Rule 54(b) of the Federal Rules of Civil Procedure ("Rule 54(b)") of the court's Orders dated October 30, 2000 and December 13, 2000 (the "October 30 Order" and the "December 13 Order," respectively) because of their national importance. Plaintiffs also apparently believe that the court's rulings in those two Orders constitute "final orders on the entire case," stating that "[i]t is difficult to imagine that the Court has anything left to say" and that the court "wisely stated that no matter how the Court rules, the *entire* case would go up on appeal." Thus, Plaintiffs have already appealed their *entire* case, including issues that have not been touched upon by this court.

This court has never indicated that the *entire* case would go up on appeal after the court issued its December 13 Order, as the court has not even begun to address most of the issues that

remain in this case. It is clear that the only issue that was addressed by the court in the October 30 Order was whether the County Defendants and the Health District Defendants, as they are defined in that Order, were immune from suit in the Navajo Tribal Court, thereby precluding this court from enforcing the Tribal Court Orders against them. *See* October 30 Order at 1 & n.2, 2-3, 21; *see also* Order Dated September 14, 2000 at 2-3 (setting forth what will be heard by the court at the October 5, 2000 hearing). In the October 30 Order, this court found that they were immune from suit in the Tribal Court and therefore declined to enforce the Tribal Court's Orders against them.

Similarly, the issues that were addressed by the December 13 Order were whether the Tribal Court Orders should be enforced against Defendants Truck Insurance Company ("Truck") and/or R. Dennis Ickes ("Mr. Ickes"). That Order also addressed whether the court would reconsider its October 30 Order finding that County Defendants and Health District Defendants were immune from suit in the Tribal Court, based on Plaintiffs' "new case law" and their motion urging the court to find the Utah Governmental Immunity Act unconstitutional. *See* December 13 Order.

In the case presently before this court, Plaintiffs appear to have numerous claims remaining, including (1) discrimination and denial of equal protection; (2) denial of free speech and association; (3) lack of due process; (4) anti- trust violations and RICO actions/Utah's Unfair Practices Act (which appears to include claims of restraint of trade, conspiracy against rights, deprivation of rights under color of law, obstruction of justice, obstruction of state or local law enforcement, interference with commerce, extortion, collection of an unlawful debt, tampering

and retaliating against a witness, and mail fraud); (5) fraud, conversion and theft of public funds and facilities; (6) invasion of privacy and criminal and civil defamation; (6) medical malpractice; and (7) takings and deprivation of public benefits and assistance. This court has never ruled upon any of these claims. Rather, the court has only ruled upon Plaintiffs' request for declaratory judgment that the Tribal Court Orders are enforceable against Defendants.

Despite Plaintiffs' misunderstanding of the court's October 30 and December 13 Orders, however, the court agrees that the questions at issue in the two Orders are issues of national importance, and the court finds that there is no just reason for delay and expressly directs the entry of judgment on Plaintiffs' claim pursuant to Rule 54(b). However, the court emphasizes that the only claim being certified is Plaintiffs' claim for declaratory judgment that the Tribal Court Orders are enforceable against Defendants. The issues raised by that claim are the issues addressed in the October 30 and December 13 Orders, which are (1) whether the County Defendants and Health District Defendants were immune from suit in the Navajo Tribal Court; and (2) whether the Tribal Court Orders are enforceable against Truck and Mr. Ickes. No other claim may be appealed.

Also, despite Plaintiffs' request in their 54(b) motion to stay the case while this claim is appealed, they have now filed a Motion for a Temporary Restraining Order and a "Motion for a More Definite Statement and Motion to Shift the Burden of Proof and Dismiss all Immunity Affirmative Defenses." Defendants, too, requested that the case be stayed if the 54(b) certification was granted. The court, however, declines to stay the case pending appeal of the issues in the October 30 and December 13 Orders.

Thus, briefing on the Plaintiffs' TRO request will remain as previously scheduled. Defendants' responses to Plaintiffs Motion for a More Definite Statement, etc., will be due on March 14, 2001. Plaintiffs' reply will be due on March 28, 2001. The court will soon schedule a hearing on these pending motions, along with Defendants' Motion to Dismiss Mark Maryboy.

II. ICKES' MOTION TO DISMISS

Mr. Ickes filed a motion to dismiss in August 2000, arguing that, viewing the complaint in a light most favorable to Plaintiffs, they have not alleged a claim against him that would entitle them to relief and that they have not demanded any remedy against Mr. Ickes by name or by class of defendants.

In this court's December 13 Order, the court stated that, given the court's ruling regarding Ickes and Truck, it was hard to imagine how Plaintiffs had any legitimate claims against either of these defendants in this court. Accordingly, the court requested that, if Plaintiffs believed they had any meritorious arguments pertaining to why Ickes and Truck should not be dismissed, to file a brief to that effect by a certain date.

Plaintiffs responded by arguing that it would be premature to dismiss Mr. Ickes because Plaintiffs had already appealed the case and, until the Tenth Circuit rules on immunity and other issues, any ruling to dismiss Ickes would be premature. Plaintiffs then proceeded to re-argue that this court lacks jurisdiction to deny the Tribal Court's sovereign authority to control is own processes, etc., and that the Tribal Court had jurisdiction over Ickes. Thus, Plaintiffs failed to provide the court with any legitimate claim that remained against Mr. Ickes. Plaintiffs also

failed to address whether they had any remaining claims against Truck, even though the court reminded them again, in an Order dated January 19, 2001, granting an enlargement of time to respond, that, Plaintiffs should address whether there were any reasons to keep Truck in this lawsuit.

Thus, Plaintiffs have failed to provide any basis for keeping Ickes or Truck in this lawsuit and this court is unaware of any reason that justifies keeping them in. Accordingly, Mr. Ickes and Truck are both dismissed with prejudice.

III. DEFENDANTS' JOINT MOTION FOR A PROTECTIVE ORDER OR TO DISQUALIFY COUNSEL

All the Defendants have filed a Joint Motion for Protective Order Regarding Mark Maryboy or in the Alternative to Disqualify Plaintiff's Counsel. Defendants claim that Schildmeyer has had ex parte communications with Commissioner Maryboy, who is a represented party opponent, in violation of Rule 4.2 of the Utah Rules of Professional Conduct.

In addition, Susan Schildmeyer has written a letter to Defendants, stating that she is representing Commissioner Maryboy in his individual capacity, which, Defendants claim, violates of Rule 1 .7. Defendants claim that Ms. Schildmeyer's "egregious misconduct" has severely prejudiced them in their ability to defend themselves in this lawsuit, meriting a protective order or her disqualification. Specifically, Defendants argue that (1) she should not be allowed to represent Maryboy; (2) that she should be ordered not to communicate with him, except through counsel and according to the specific procedures

explained in the comment to Rule 4.2; (3) that she should be prohibited from communicating with him regarding anything other than policy matters, and she should be prohibited from obtaining information or documents that he obtains through his position as a County Commissioner in connection with this lawsuit; (4) she should be ordered not to communicate with him concerning any privileged, work product, or other confidential matters that pertain to this lawsuit or any other claims against the County; (5) Commissioner Maryboy should also be ordered not to communicate with Ms. Schildmeyer regarding the above, except through his attorney or established discovery procedures; and (6) in the event Ms. Schildmeyer violates the order she should be disqualified or otherwise sanctioned.

Defendants also request an accounting of all her communications with Maryboy and any other Defendant. They contend that Ms. Schildmeyer come forward with a complete accounting of (1) all communications she has had with any Defendants, whether directly or though an agent; (2) all information she has received from any Defendant; and (3) all materials or documents she has obtained or reviewed that came from any Defendant, directly or through an agent. Defendants want this to be under oath and on the record, preferably in open court to avoid later disputes about what was obtained through inappropriate means.

Finally, if Ms. Schildmeyer is not disqualified, Defendants request that Ms. Schildmeyer be ordered to obtain permission from the court before filing any additional pleadings because of the "repeated voluminous, meritless, and unnecessary pleadings she has filed."

Appendix A

Stripped of the accusations of racism and other inflammatory comments about Defendants, Ms. Schildmeyer appears to claim that there is nothing wrong with representing someone that her clients have sued because they sued him in only his official capacity.

The court agrees with Defendants that the Rules of Professional Conduct prevent Ms. Schildmeyer from talking to Mr. Maryboy and certainly prevent her from representing Mr. Maryboy. Accordingly, the court will enter a protective order similar to that requested by Defendants, except that the court will not order Mr. Maryboy to refrain from talking to Ms. Schildmeyer. In addition, Ms. Schildmeyer is ordered to provide a complete accounting of (1) all communications she has had with any Defendants, whether directly or though an agent; (2) all information she has received from any Defendant; and (3) all materials or documents she has obtained or reviewed that came from any Defendant, directly or through an agent. Such information should be provided by affidavit to Defendants by March 21, 2001.

In addition, although the court is sympathetic to Defendants' request that Plaintiffs be required to obtain permission of the court before filing any additional pleadings, the court will not enter such a broad order at this time. However, in future filings, Plaintiffs, should exercise discretion in terms of subject matter, content, and length of their filings. For example, Plaintiffs should (1) refrain from filing additional memoranda on issues that have already been briefed and argued, (2) refrain from re-drafting and re-filing motions and memoranda just prior to when Defendants' opposition memoranda are due on the original motion; (3) temper their use of hyperbole and inflammatory

language, and (4) attempt to secure extensions of time from opposing counsel. As of today, Plaintiffs have at least two motions that are currently being briefed. Until these two motions are ruled upon by the court, Plaintiffs are not to file any further motions unless the court grants leave to do so. Failure to comply with these requests will result in an order requiring Plaintiff to seek permission to file anything in this case and/or the court's striking Plaintiffs' pleadings.

IV. PLAINTIFFS' MOTION TO DISQUALIFY COUNSEL

Plaintiffs request an Order disqualifying all of Defendants' counsel from their current representation of Defendants and appointing one counsel as fiduciary for the County, one as a fiduciary for the District, and individual counsel for each Defendant. Plaintiffs claim that there are conflicts of interest in this "unified defense" approach. Plaintiffs argue that they have tried to settle with five individual defendants, but there has to be absolute confidentiality of the details before the offer is conveyed because the offers would disclose Plaintiffs' attorney client communications and expose litigation strategy. Plaintiffs appear to argue that, if the individuals are represented in both their individual and official capacities, then there is no way to settle confidentially with the individuals without their "official capacity" counsel knowing about the terms of the settlement and then sharing the information among themselves.

Plaintiffs argue, without providing facts, that the County has conflicts with the individual County employees/officials and that the individuals have conflicts with each other. Plaintiffs also requests that this court convene a grand jury "and otherwise

order or request the U.S. Attorney's office or Department of Justice or Government Accounting Office to track the federal funds coming into San Juan County and San Juan District for the last several years." Plaintiffs claim that the Defendants' counsel should be representing the *people* of the County-not the wrongdoers.

In general, Defendants argue that Plaintiffs have failed to identify any conflict, let alone a conflict that would grant them standing to seek disqualification. The Health District points out that the Rules of Professional Conduct provide a procedure for dealing with potential conflicts that may arise in such a situation, i.e., by providing notice to the clients of the potential for conflicts and allowing clients to waive those conflicts if and when they arise. Holme Roberts & Owen claims that it has complied with Rule 1.7's conflict procedure. Thus, Defendants argue that they are free to defend themselves against Plaintiffs' claims in a manner they see fit.

The court agrees with Defendants that Plaintiffs have not identified any conflict that warrants disqualification. Thus, Plaintiffs' motion is denied.[1]

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1. In addition, although Plaintiffs have argued that this case involves criminal wrongdoing and that this court should order the U.S. Attorney to convene a grand jury, this is a civil case, not a criminal case. If Plaintiffs believe that there has been criminal activity, they are free to contact the United States Attorney for the District of Utah. The court will not, as Plaintiffs request in their Complaint (*see, e.g.*, Complaint at 4), issue a Writ of Mandamus to the U.S. Attorney's office, the Department of Justice, the Government Accounting Office, and the IRS to investigate charges of facts contained in the Complaint and to select a grand jury. Consequently, the court dismisses any claims based on criminal law and any claims for Writs of Mandamus regarding criminal allegations.

Appendix A

V. DOUG SHORT'S REQUEST TO REPRESENT MARK MARYBOY

The County and Health District Defendants have objected to Mr. Short's representation of Mr. Maryboy on the basis that Mr. Short represented Plaintiffs in the previous litigation against these Defendants in the Tribal Court and that, in representing Mr. Maryboy in this action, there is an impermissible conflict that cannot be waived.

Mr. Short disagrees, arguing that Mr. Maryboy is entitled to select counsel of his choice. Mr. Short also represents that his previous clients (the three plaintiffs in the Tribal Court action) have waived any conflict. He claims that Rule 1.7 of the Rules of Professional Conduct do not come into play because that rule applies only to conflicts between current clients, and Mr. Short is not currently representing Plaintiffs in this action.

The court agrees with Mr. Short that he may represent Mr. Maryboy. In addition, Mr. Short has also requested that the court order the County to pay Mr. Short for his defense of Mr. Maryboy. However, on the record before the court, the court cannot rule on that request at this time.

VI. CONCLUSION

For the foregoing reasons and good cause appearing, it is hereby ORDERED that:

(1) Plaintiffs' Motion for Rule 54(b) Certification As to the October 30 and December 13 Orders is GRANTED. However, the court emphasizes that the only claim being certified is Plaintiffs' claim for declaratory judgment that the Tribal Court Orders are enforceable against Defendants.[2] The issues raised by that claim are the issues addressed in the October 30 and December 13 Orders, which are (1) whether the County Defendants and Health District Defendants were immune from suit in the Navajo Tribal Court; and (2) whether the Tribal Court Orders are enforceable against Truck and Mr. Ickes. The remainder of the case is not stayed. A briefing schedule on pending motions is set forth above.

(2) Defendant R. Dennis Ickes' Motion to Dismiss is GRANTED, and Mr. Ickes is hereby dismissed from the case.

(3) Truck Insurance is hereby dismissed from the case, as there are no remaining claims against Truck.

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2. While this claim is not specifically delineated as a claim for relief in Plaintiffs' Complaint, it is requested in various places. *See, e.g.*, Complaint at 2, 154. Specifically, in the Complaint, Plaintiffs request "a declaratory judgment that the Preliminary Injunction Order designed to protect the welfare of the Navajo Nation was issued within the sound discretion of the Navajo Nation District Court and is authoritative over the defendants and the political subdivisions."

(4) Defendants' Joint Motion for a Protective Order Regarding Mark Maryboy or in the Alternative to Disqualify Plaintiffs' Counsel is GRANTED in part and DENIED in part. The court will not disqualify Plaintiffs' counsel, but the following Protective Order applies to Ms. Schildmeyer:

(A) Ms. Schildmeyer is not allowed to represent Mr. Maryboy; (B) Ms. Schildmeyer is ordered not to communicate with Mr. Maryboy regarding this litigation, except through counsel and according to the specific procedures explained in the comment to Rule 4.2; (C) she is prohibited from communicating with Mr. Maryboy regarding anything other than policy matters, and she is prohibited from obtaining information or documents that he obtains through his position as a County Commissioner in connection with this lawsuit; (D) in the event Ms. Schildmeyer violates this order, she will be disqualified or otherwise sanctioned.

Ms. Schildmeyer is also required to provide to Defendants, via affidavit, an accounting of her contacts with Mark Maryboy, consistent with that described above, by March 21, 2001.

(5) Plaintiffs' Motion to Disqualify Defendants' Counsel is DENIED;

(6) Any criminal claims in the Complaint and any claims for Writs of Mandamus regarding criminal allegations are hereby DISMISSED.

Appendix A

(7) Doug Short's Request to Become Counsel for Mark Maryboy is GRANTED in part and DENIED in part. Mr. Short may serve as Mr. Maryboy's counsel, but this court cannot, at this point and on the record before the court, order the County to pay Mr. Short for Mr. Maryboy's defense.

DATED this 6th day of March, 2001.

BY THE COURT:

s/ Dale A. Kimball
DALE A. KIMBALL
United States District Judge

APPENDIX B — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT DENYING PETITION FOR REHEARING AND REHEARING EN BANC FILED NOVEMBER 8, 2002

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

No. 01-4001

STEVEN MACARTHUR, et al.,

Plaintiffs - Appellants,

v.

SAN JUAN COUNTY, et al.,

Defendants - Appellees.

ORDER
Filed November 8, 2002

Before **EBEL**, **McKAY**, and **LUCERO**, Circuit Judges.

Appellants' petition for a panel rehearing and appellees' petition for rehearing en banc are denied.

The petition for rehearing en banc was transmitted to all of the judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, that petition is also denied.

Appendix B

Entered for the Court
PATRICK FISHER, Clerk of Court

by: s/ Steve Larson
Deputy Clerk